

MEMORANDUM

Department of Environmental Quality
Waste Division

SUBJECT: Guidance Memo No. 03-2004 – (Virginia Code § 10.1-1188) – Waste Division Review of Environmental Review Reports as required by the National Environmental Policy Act

The purpose of this document is to establish a procedure for the DEQ Central Office Waste Division staff in their review of Environmental Review Reports as required by the National Environmental Policy Act, 42 U.S.C. 4321, *et seq.*

TO: Waste Division Staff

FROM: Karen Jackson Sismour
Waste Division Director

DATE: May 25, 2004

I. Introduction

The purpose of this guidance is to formalize a procedure for the Central Office Waste Division Staff in their review of Environmental Assessments and Environmental Impact Statements, required by the National Environmental Policy Act, 42 U.S.C. 4321, *et seq.* and of state Environmental Impact Reports for major state projects, airports, and State Corporate Commission projects.

II. Background

Virginia Code §10.1-1188 requires State agencies to prepare and submit an Environmental Impact Report for each major state project. The National Environmental Policy Act, 42 U.S.C. 4321, *et seq.*, requires the Federal Government to prepare and submit Environmental Assessments and Environmental Impact Statements for federal projects. There are other types of reports detailed below. These are collectively referred to as Environmental Review (ER) reports.

The Department of Environmental Quality (DEQ) has the responsibility of coordinating the review of these reports with other State agencies, such as the Department of Historic Resources, Department of Health, and the Department of Game and Inland Fisheries. A complete list of potential State agencies involved can be found in Attachment 1. Within DEQ, the Office of Environmental Impact Review (OEIR), Division of Environmental Enhancement, has the responsibility of coordinating the DEQ response to ER reports. The Waste Division has the responsibility of providing comments related to waste issues.

DEQ's Water and Air Divisions, Regional Offices, and other State agencies have similar responsibilities.

III. Waste Division Review of Environmental Review Reports

A. Environmental Review (ER) Report Review Coordination

Environmental Review (ER) Reports are sent to the DEQ Waste Division ER Coordinator (ER Coordinator). The ER Coordinator has the responsibility of completing the report review by the assigned deadline, or assuring the report is reviewed if there is a separate reviewer, and sending the comment memo/letter directly back to the person who sent it to the Waste Division. See the OEIR Environmental Review Request Form example cover form in Attachment 1. If a report comes in without a deadline, Staff should complete the review within 30 days.

The typical level of expected review consists of reviewing the databases detailed below to determine if the Waste Division has knowledge of the environmental history of the site or surrounding areas identified in the report, as well as a review of the ER report to see if there are or will be any obvious waste issues associated with the project.

B. Work Flow of Different Types of ER Reports

There are several different types of ER reports that may be received by the Waste Division. Listed below is a discussion of the different scenarios by which the Waste Division may receive an ER report.

1. ER Report from OEIR

The ER Coordinator receives an ER report and an OEIR cover form or memo with a due date. An example of the type of reports distributed by OEIR include State Environmental Impact Reports, Federal Environmental Assessments, Federal Environmental Impact Statements, and Federal Supplemental Consistency Determination/Certifications.

The report reviewer develops comments after a check of the web-based Waste Division Real Estate Search Information databases (Attachment 2) and a review of the ER report to determine if there are potential waste issues, and if pollution prevention/waste minimization was addressed. The reviewer then sends a comment memo to OEIR.

2. ER Reports Received from Project Sponsor

Some ER reports come directly to the ER Coordinator without an OEIR cover form. The OEIR cover form is sent separately, at a later date. These

are generally large reports, such as for power plant projects. The review is handled as detailed in paragraph B.1 above.

3. Scoping Documents

The Waste Division also receives Scoping Documents. These are reports that precede a comprehensive Environmental Assessment/Environmental Impact Statement and are typically sent directly to the ER Coordinator. The ER Coordinator will respond directly to the requester by letter and copy OEIR.

Please note that with Scoping Documents, the Waste Division is only required to search the Real Estate Search Information databases; however, if there are obvious waste-related issues, they should be addressed in the return correspondence. Also, since most of the Scoping Documents are completed for construction projects, the reviewer should use the generic prepared text for construction projects given in Section C.2.c. Because Scoping Documents do not contain an environmental investigation component, the reviewer should recommend that an environmental investigation be performed to identify any site-specific environment issues.

4. Other Reports

There are other types of ER reports that are sent directly to the ER Coordinator. Reviewers should consult with OEIR, then use their best professional judgment in preparing a response.

C. Components of Environmental Reviews

1. Database Check

The report reviewer should analyze the data in the web-based Waste Division Real Estate Search Information databases to determine if the project would affect or be affected by any sites identified in the databases. There are three Waste Division databases that are to be used by Staff to complete this review. These are the Solid Waste Database, CERCLA Facilities, and Hazardous Waste Facilities. The Solid Waste Database is a list of active solid waste facilities in Virginia. CERCLA Facilities is a list of active and archived CERCLA (EPA Superfund Program) sites. Hazardous Waste Facilities is a list of hazardous waste generators, hazardous waste transporters, and hazardous waste storage and disposal facilities. Data for the CERCLA Facilities and Hazardous Waste Facilities databases are periodically downloaded by the Waste Division from U.S. EPA's website.

The reviewer should access this information on the DEQ website at <http://www.deq.state.va.us/waste/waste.html>. The databases are listed under Real Estate Search Information heading.

The solid waste information can be accessed by clicking on the Solid Waste Database tab and opening the file. Type the county or city name and the word County or City, and click the Preview tab. All active solid waste facilities in that locality will be listed.

The Superfund information will be listed by clicking on the CERCLA Facilities tab and opening the file. Click on the locality box, click on sort, then click on Datasheet View. Scroll to the locality of interest.

The hazardous waste information can be accessed by clicking on the Hazardous Waste Facility tab. Go to the Geography Search section and fill in the name of the city or county and VA in the state block, and hit enter. The hazardous waste facilities in the locality will be listed.

This database search will include most waste-related site information for each locality. In many cases, especially when the project is located in an urban area, the database output for that locality will be extensive.

Another database included in the Real Estate Search Information is the Pollution Response Program information. It is a list of environmental incidents reported by the DEQ Regional Offices. The Waste Division staff is not expected to screen the project against this database, since it is part of the Regional Office's area of responsibility.

Standard language has been developed that should be used for the database check section in ER review memos/letters, and is listed below in section C.2.b.

2. Environmental Review – Recommended Language

ER reports should address potential waste sites and waste issues. The role of the ER Coordinator in reviewing these reports is to determine if the proposed project will impact waste sites, be impacted by waste sites, or generate waste. Standard language listed below should be used in ER review memos and letters to comment on typical information that is given in the ER reports. This list can also be used to check if these issues were covered in the ER report.

a. Waste Issues

- 1) In reports where no waste-related information is given:

“Solid and hazardous waste issues and sites were not addressed in the report.”

Or, “Solid and hazardous waste issues were not addressed in the report. An environmental assessment should be conducted before construction to assure that there are no waste-related issues or sites.”

2) In reports where some waste issues are addressed:

“The report addressed hazardous waste issues and sites, but solid waste was not addressed.”

Or, “The report partially addressed solid waste issues, but hazardous waste issues and waste sites were not addressed.”

3) In reports where waste issues and sites were (adequately) addressed:

“Solid and hazardous waste issues and sites were (adequately) addressed in the report.”

4) In reports where waste issues were addressed, but not a waste-related database search:

“Solid and hazardous waste issues were addressed, but the report did not include a search of waste-related databases.”

b. Waste-related Database Search

If not already stated: “The report (did/did not) include a search of waste-related databases.”

And, “The Waste Division did a cursory review of its data files and (did/did not) find any (additional) sites that might impact this project.” (List any sites that might impact or be impacted by the project.)

Or, “The Waste Division did a cursory review of its data files and the site/facility is listed as a conditionally exempt small quantity generator of hazardous waste.”

For all reviews, if the site is a Superfund or Federal Facilities Restoration Site, a major hazardous waste (RCRA) or Solid Waste Management facility, or is adjacent to one of these sites, the report also needs to be reviewed by the assigned project officer to check if

the project affects Waste Division activities. The project officer's comments should be included in the ER review memo/letter.

A summary of those comments may read like this: "The Virginia Department of Environmental Quality's Federal Facilities Restoration Section also reviewed the report and determined that it would not impact any of the environmental investigation and remediation projects currently identified at the site."

c. Construction Projects

"Any soil (or sediment) that is suspected of contamination must be tested and disposed of in accordance with applicable Federal, State, and local laws and regulations. In addition, any wastes generated or discovered must also be handled, managed and disposed of in accordance with applicable Federal, State, and local laws and regulations. Some of the applicable state laws and regulations are: Virginia Waste Management Act, Code of Virginia Section 10.1-1400 *et seq.*; Virginia Hazardous Waste Management Regulations (VHWMR) (9VAC 20-60); Virginia Solid Waste Management Regulations (VSWMR) (9VAC 20-80); and Virginia Regulations Governing the Transportation of Hazardous Materials (9VAC 20-110). Some of the applicable Federal laws and regulations are: the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. Section 6901 *et seq.*, and the applicable regulations contained in Title 40 of the Code of Federal Regulations; and the U. S. Department of Transportation Rules for Transportation of Hazardous Materials, contained in Title 49 of the Code of Federal Regulations."

d. Demolition/renovation (asbestos and lead-based paint issues)

"The report stated that structures that will be demolished/renovated/removed would be checked for the presence of asbestos-containing materials (ACM) and lead-based paint (LBP). If they are found, in addition to the Federal waste-related regulations, State regulations 9VAC 20-80-640 for ACM and 9VAC 20-60-261 for LBP must be followed."

Or, "The report stated that asbestos-containing materials (ACM) and lead-based paint (LBP) might be present in the structures that are to be demolished/renovated/removed. These structures should be checked for the presence of ACM and LBP, and if found, in addition to the Federal waste-related regulations, State regulations 9VAC 20-80-640 for ACM and 9VAC 20-60-261 for LBP must be followed."

Or, “The report did not state if structures that will be demolished/renovated/removed have been checked for the presence of asbestos-containing materials (ACM) and/or lead-based paint (LBP). They should be checked and if LBP or ACM are found, in addition to the Federal waste-related regulations, State regulations 9VAC 20-80-640 for ACM and 9VAC 20-60-261 for LBP must be followed.”

e. Hazardous Materials/Hazardous Waste Present after Construction

“If hazardous materials will be located on the site after construction, Federal and State regulations that address hazardous materials/hazardous waste must be followed.”

Or, “The report states that hazardous materials will be located on the site after construction, therefore, Federal and State regulations that address hazardous materials/hazardous waste must be followed.”

f. Pollution Prevention/Waste Minimization (to be included in all reviews)

“Pollution prevention (was/was not) (adequately) addressed in the report. DEQ encourages all construction projects and facilities to implement pollution prevention principles, including the reduction, reuse, and recycling of all solid wastes generated. All hazardous wastes should be minimized.”

g. Other Issues

The ER Coordinator should sufficiently review the ER reports to see if there are other waste-related issues that should be addressed. As mentioned above, other DEQ Divisions and Agencies are reviewing the ER reports, and will address their areas of concern. See the OEIR cover form, which gives the report distribution list (Attachment 1).

IV. Other Applicable Information

This guidance document was reviewed by DEQ Waste Division Office of Remediation Programs Staff and Office of Waste Programs Staff, and Division of Environmental Enhancement Office of Environmental Impact Review Staff. All of the comments were incorporated.

Attachments:

- A. Attachment 1 – OEIR ER Request Form, with a List of Other State Agencies
- B. Attachment 2 – Examples from the Waste Division Real Estate Search Information databases
- C. Attachment 3 – Boiler Plate Format of an Environmental Review Memo and an Environmental Review letter
- D. Attachment 4 – Memo, Subject: Environmental Impact Reviews signed by Bob Burnley, dated March 29, 2002, for informational purposes only.